

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241 (OKND Mod 07-2019)

**FILED**

DEC 08 2022

Mark C. McCartt, Clerk  
U.S. DISTRICT COURT

## UNITED STATES DISTRICT COURT

for the  
Northern District of OklahomaDANIEL LEE MITCHELL

Petitioner

v.

CHEROKEE NATION

Respondent

(name of warden or authorized person having custody of petitioner)

**22 CV - 534 CVE - CDL**Case No. \_\_\_\_\_  
(Supplied by Clerk of Court)

## PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

## Personal Information

1. (a) Your full name: DANIEL LEE MITCHELL (NON-INDIAN)
- (b) Other names you have used: \_\_\_\_\_
2. Place of confinement:
  - (a) Name of institution: CHEROKEE COUNTY DETENTION CENTER
  - (b) Address: 1513 N. DOUGLAS AVE  
TAHLEQUAH, OK 74464
  - (c) Your identification number: 093502
3. Are you currently being held on orders by:
 

☐ Federal authorities
 ☐ State authorities
 ☒ Other - explain: CHEROKEE NATION
4. Are you currently:
 

☒ A pretrial detainee (waiting for trial on criminal charges)
 ☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime

If you are currently serving a sentence, provide:

  - (a) Name and location of court that sentenced you: \_\_\_\_\_
  - (b) Docket number of criminal case: \_\_\_\_\_
  - (c) Date of sentencing: \_\_\_\_\_

☐ Being held on an immigration charge  
☒ Other (explain): PETITIONER WAS INCARCERATED AT ROGERS COUNTY JAIL (FROM 8-18-21 TO 11-09-22) MOVED TO CHEROKEE COUNTY ON (11-09-22 TO CURRENT DATE)

<input checked="" type="checkbox"/> Mail	<input type="checkbox"/> No Cert Svc	<input type="checkbox"/> No Orig Sign
<input type="checkbox"/> C/J	<input type="checkbox"/> C/MJ	<input type="checkbox"/> C/Ret'd
<input type="checkbox"/> No Cpys	<input checked="" type="checkbox"/> No Env/Cpys	<input type="checkbox"/> O/J
		<input type="checkbox"/> O/MJ

## Decision or Action You Are Challenging

5. What are you challenging in this petition:
 

☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example,

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revocation or calculation of good time credits)

- ☒ Pretrial detention
- ☐ Immigration detention
- ☐ Detainer
- ☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- ☐ Disciplinary proceedings
- ☐ Other (explain): \_\_\_\_\_

## 6. Provide more information about the decision or action you are challenging:

- (a) Name and location of the agency or court: ROGERS COUNTY JAIL CLAREMORE, OK 74017  
HELD BY CHEROKEE NATION
- (b) Docket number, case number, or opinion number: CF-2021-1345
- (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):  
PETITIONER IS A (NON-INDIAN), INCIDENT OCCURED 7-26-2022 DETENTION  
OFFICER AT ROGERS COUNTY JAIL STATE OF OKLAHOMA VIOLATED POLICY BY DESTROYING  
LEGAL EXHIBITS FOR DEFENSE (OBSTRUCTION TO JUSTICE) FOR DEFENSE OF CHEROKEE NATION
- (d) Date of the decision or action: FINAL FACILITY 10-24-22 2:15pm CAPTIAN GRIEVANCE

## Your Earlier Challenges of the Decision or Action

## 7. First appeal

Did you appeal the decision, file a grievance, or seek an administrative remedy?

- ☒ Yes ☐ No

(a) If "Yes," provide:

- (1) Name of the authority, agency, or court: ROGERS COUNTY JAIL GRIEVANCE(S) FILED  
ADMINISTRATIVE
- (2) Date of filing: 10-24-22 FINAL GRIEVANCE 2:15pm
- (3) Docket number, case number, or opinion number: N/A
- (4) Result: NO CANNOT REPLACE EVIDENCE NOR HAVE ABILITY TO OBTAIN
- (5) Date of result: 10-24-22
- (6) Issues raised: INCIDENT OCCURED JULY 26<sup>TH</sup> 2022 ROGERS COUNTY JAIL  
DETENTION OFFICER MALLOT AN EMPLOYEE OF ROGERS COUNTY JAIL STATE  
EMPLOYEE OF OKLAHOMA DESTROYED PETITIONERS EVIDENCE FOR ACTUAL INNOCENCE  
THE EVIDENCE WAS (TARGETED SPECIFICS) EMPLOYEE CAUGHT ON RECORDED VIDEO.

(b) If you answered "No," explain why you did not appeal: \_\_\_\_\_

## 8. Second appeal

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

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☒ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: ROGERS COUNTY POLICE REPORT FULLOBSTRUCTION TO JUSTICE(2) Date of filing: 10-25-22(3) Docket number, case number, or opinion number: REPORT NUMBER R22030009(4) Result: N/A(5) Date of result: N/A(6) Issues raised: DESTRUCTION OF EVIDENCE BY STATE EMPLOYEE FOR PETITIONER'S COURT CASE IN CHEROKEE NATION

(b) If you answered "No," explain why you did not file a second appeal:

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☒ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: OKLAHOMA STATE ATTORNEY GENERALCITIZEN COMPLAINT(2) Date of filing: 10-31-2022 MAILED TO ATTORNEY GENERAL(3) Docket number, case number, or opinion number: N/A(4) Result: N/A(5) Date of result: N/A(6) Issues raised: ROGERS COUNTY HOLDING FACILITY FOR CHEROKEE NATION DOES NOT HAVE ABILITY TO OBTAIN THE LEGAL EVIDENCE THAT ROGERS COUNTY SHERIFF EMPLOYEE MALLOT FOR STATE OF OKLAHOMA DESTROYED (SPOILIATION OF EVIDENCE) VIOLATED DUE PROCESS RIGHTS, ACCESS-TO-EVIDENCE VIOLATIONS OF THE FOURTEENTH ADMEENDMENT. A PROHIBITED OR CRIMINAL ACT BY STAFF MEMBER

(b) If you answered "No," explain why you did not file a third appeal:

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes ☐ No

If "Yes," answer the following:



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- (a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?  
☐ Yes ☒ No

If "Yes," provide:

- (1) Name of court: \_\_\_\_\_  
 (2) Case number: \_\_\_\_\_  
 (3) Date of filing: \_\_\_\_\_  
 (4) Result: \_\_\_\_\_  
 (5) Date of result: \_\_\_\_\_  
 (6) Issues raised: \_\_\_\_\_

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes ☒ No

If "Yes," provide:

- (1) Name of court: \_\_\_\_\_  
 (2) Case number: \_\_\_\_\_  
 (3) Date of filing: \_\_\_\_\_  
 (4) Result: \_\_\_\_\_  
 (5) Date of result: \_\_\_\_\_  
 (6) Issues raised: \_\_\_\_\_

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: \_\_\_\_\_

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☐ Yes ☒ No

If "Yes," provide:

- (a) Date you were taken into immigration custody: \_\_\_\_\_

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(b) Date of the removal or reinstatement order: \_\_\_\_\_

(c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes ☒ No

If "Yes," provide:

(1) Date of filing: \_\_\_\_\_

(2) Case number: \_\_\_\_\_

(3) Result: \_\_\_\_\_

(4) Date of result: \_\_\_\_\_

(5) Issues raised: \_\_\_\_\_

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes ☒ No

If "Yes," provide:

(1) Name of court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Case number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes ☒ No

If "Yes," provide:

(a) Kind of petition, motion, or application: \_\_\_\_\_

(b) Name of the authority, agency, or court: \_\_\_\_\_

(c) Date of filing: \_\_\_\_\_

(d) Docket number, case number, or opinion number: \_\_\_\_\_

(e) Result: \_\_\_\_\_

(f) Date of result: \_\_\_\_\_

(g) Issues raised: \_\_\_\_\_

### Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

#### GROUND ONE: LACK OF JURISDICTION

(a) Supporting facts (Be brief. Do not cite cases or law.):

PETITIONER IS A (NON-INDIAN) CHARGED BY CHEROKEE NATION FOR VIOLATION OF PROTECTIVE ORDER, A+B, THREATEN AN ACT OF VIOLENCE. THE CHEROKEE NATION HAS NO EQUAL PROTECTION OF LAW AND RETURNED MY CASE BY IRREPARABLE HARM. THE JUDGE, ATTORNEY GENERAL AND ATTORNEY FOR PETITIONER SIGNED A MOTION STATING, DEFENDANT WAS CHARGED WITH HOMICIDE

(b) Did you present Ground One in all appeals that were available to you?

☒ Yes

☐ No

#### GROUND TWO: VIOLATION OF DUE PROCESS

(a) Supporting facts (Be brief. Do not cite cases or law.):

PETITIONER IS A (NON INDIAN) CHEROKEE NATION CANNOT PROVIDE EQUAL PROTECTION OF LAW NOR PROVIDE AN IMPARTIAL COURT WITH THE ALLEGED VICTIM A 2022 REPUBLICAN US SENATE CANDIDATE MEMBER OF CHEROKEE NATION THAT HAS PARTICIPATED IN A COLLABORATION CONTRIBUTION SCHEME FOR US SENATE

(b) Did you present Ground Two in all appeals that were available to you?

☒ Yes

☐ No

#### GROUND THREE: OFFENSE UNDER DURESS CONCEAL FACTS WITH COERCIVE INFLUENCES AND THEREFORE CONSTITUTIONALLY PROHIBITED

(a) Supporting facts (Be brief. Do not cite cases or law.):

CHEROKEE NATION ATTORNEYS HAVE THREATENED IMPRISONMENT AND INJURY HARM TO PETITIONERS ACTUAL INNOCENCE IF HABEAS CORPUS IS FILED (PROCEDURAL DUE PROCESS) or (SUBSTANTIVE DUE PROCESS) ARE VIOLATED

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(b) Did you present Ground Three in all appeals that were available to you?

☒ Yes☐ No

**GROUND FOUR:** PROSECUTION HAS WITHHELD EVIDENCE THAT COULD HELP WITH CASE

(a) Supporting facts (Be brief. Do not cite cases or law.):

VIOLATION OF 14TH AMENDMENT CONFRONTATION CLAUSE  
~~PETITIONER HAS FILED MOTION TO PRODUCE DISCOVERY SINCE AUG 18, 2021~~  
 PETITIONER INCARCERATED OVER 15 MONTHS AND HAS NOT SEEN DISCOVERY OR ANY EVIDENCE FOR THE CHARGES. HAS NEVER SEEN A JUDGE OR COURTROOM

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes☒ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: PETITIONER DEMONSTRATES UNCONSTITUTIONAL ERRORS AND DEPRIVED FROM THE PRIVILEGES AND RIGHTS PROVIDED BY THE UNITED STATES CONSTITUTION. CHEROKEE NATION CANNOT GUARANTEE CONSTITUTIONAL RIGHTS TO PETITIONER

### Request for Relief

15. State exactly what you want the court to do: PROVIDE PETITIONER AN ATTORNEY FOR THE COMPLEX LEGAL CHALLENGES IN THIS HABEAS CORPUS. PETITIONER DEMANDS LIBERTY FROM THE CHEROKEE NATION THAT HAS VIOLATED CONSTITUTIONAL RIGHTS GIVEN TO A US CITIZEN A (NOW-INDIAN) CHEROKEE NATION HAS PERSECUTED A (NOW INDIAN) FOR INNOCENT CONDUCT PETITIONER DEMANDS TO BE RELEASED



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**Declaration Under Penalty Of Perjury**

If you are incarcerated, on what date did you place this petition in the prison mail system with the correct postage attached:

DECEMBER 06, 2022

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 12-5-2022

  
Signature of Petitioner

\_\_\_\_\_  
Signature of Attorney or other authorized person, if any



*Daniel Mitchell - F*  
CHEROKEE COUNTY DETENTION CENTER  
1513 N. DOUGLAS AVENUE  
TAHLEQUAH, OK 74464  
(P) 918-456-8311 (F) 918-456-8358

**INMATE MAIL**

TULSA, OK 740

PM 3 1

*Postage Mailed*



CLERK UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF OKLAHOMA

RECEIVED 333 WEST FOURTH STREET ROOM 411

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Mark C. McCart, Clerk  
U.S. DISTRICT COURT

74103-3819